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To: Legislative Fiscal Committee

From: Jennifer Acton

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Re: Review of Senate File 2383 (Debt Collection Act)

Senate File 2383 (enacted in the 2010 Legislative Session) amended procedures relating to the collection of debt obligations owed the State and cities and established the Office of the State Debt Coordinator located in the Department of Revenue. Also, it is important to note that the fine amounts assessed for many scheduled and nonscheduled traffic violations increased in FY 2011 (SF 2378 Justice System Appropriations Act). The following information reviews the changes in SF 2383 and provides an update of the current status.

- **Court Debt Amnesty** – This Program was administered by the Department of Revenue from September 1, 2010, through November 30, 2010. The Program permitted forgiveness of 50.0% of the debt paid in a lump sum on debt that was more than four years old. Debt amnesty was granted to 13,511 applicants involving 25,442 court cases and collected \$3.4 million. The total direct cost of the Program was \$616,000. The Department of Revenue submitted the required report on January 15, 2011.
- **Taxpayer Public/Private Utility Customer Match** – This provision permitted the Department of Revenue to subpoena records of public and private utilities on a quarterly basis, effective January 1, 2011, for individuals with a debt or obligation placed with the Centralized Collection Unit (CCU). The Department of Revenue has submitted administrative rules for internal review; however, there is no immediate plan to release these rules for publication. The Department expects to issue the first subpoenas no later than January 1, 2012.
- **County Treasurer Collection for Vehicle Registrations** – This provision permitted the Department of Revenue to provide the county treasurers access to confidential information required for the collection of delinquent taxes owed the State beginning January 1, 2011. Administrative rules for this Program have not been completed. County treasurers are required to refuse renewal of a vehicle registration if the applicant has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to or being collected by the State. If the delinquent taxes are paid with the county treasurer, a \$5 processing fee is charged and deposited in the county general fund. From January 3, 2011 through August 30, 2011, 462 payments have been received totaling \$127,333.
- **County Treasurer Restitution and Delinquent Court Debt Collection for Vehicle Registrations** – This provision required the State Court Administrator to work with the county treasurers to expand the collection of restitution and delinquent court debt on behalf of the Clerk of the District Court at the time a person renews a vehicle registration beginning July 1, 2011. Legislation required the State Court Administrator to submit a report to the General Assembly on December 1, 2010; however, no report was submitted. A \$5 processing fee is charged and deposited in the county general fund. The Program began July 1, 2011 and as of August 30, 2011, has received 1,023 transactions totaling \$49,702.

- **Private Debt Collector** – This provision permitted any debt not in a county attorney collection plan and not in a payment plan with the CCU to be sent to a private debt collector after one year. The add-on collection fee for a private debt collector is up to 25.0%. This amount is in addition to the total debt owed.

A Request for Proposal (RFP) was issued May 4, 2010, and a contract was signed December 1, 2010, with Linebarger, Grogan, Blair, and Sampson LLP, a law firm from Kansas City, Missouri. The Judicial Branch is currently in the process of testing the private debt collector program in Jasper County with plans of implementing the program in all counties beginning in mid-September.

- **State Debt Coordinator** – Senate File 2383 created the Office of the State Debt Coordinator within the Department of Revenue. The Coordinator is to be appointed by the Governor, and confirmed by the Senate for a four-year term. Responsibilities of the position include coordinating collection efforts between each branch of government, making recommendations to the General Assembly to improve or increase collections and efficiencies, and managing the Debt Settlement Program, the county attorney collection program, and civil liens. To date, no Coordinator has been appointed. The language authorizing the State Debt Coordinator is repealed on January 1, 2014.

House File 2531 (FY 2011 Standing Appropriations Act) appropriated \$300,000 and 3.0 FTE positions to the Office for operational costs. Senate File 209 (Tax Changes and FY 2011 Supplemental Appropriations Act) required the unencumbered or unobligated funding appropriated to the Office of the State Debt Coordinator during FY 2011 to be used by the Department of Revenue for administrative costs associated with State tax processing. The \$300,000 appropriation was to be used for start-up costs with the intent that the Office would use receipts from collections to continue funding operations.

- **Debt Settlement Program** – The Debt Settlement Program was authorized to take effect January 1, 2011, and repealed on January 1, 2014. The Program requires debt to be more than four years old and the debtor to be at or below 200.0% of the federal poverty level. Forgiveness is limited to up to 50.0% of the eligible debt owed and must be paid in a lump sum. This Program has not been implemented as it was established as a statutory function of the State Debt Coordinator and no Coordinator has been appointed.
- **Notice of Lien in Civil Action** – This provision permits the State Debt Coordinator to file a lien against a person owing a debt to the State. This Section is repealed January 1, 2014. This provision has not been implemented as it was established as a statutory function of the State Debt Coordinator and no Coordinator has been appointed.
- **Establishes an Annual Minimum for County Attorney Collections at \$25,000** – Debt is sent to the county attorneys for collection 90 days from the date imposed. The county attorney receives a percentage of the amount collected based on a formula. The Act requires debt to remain with the CCU for collection if the county does not collect a minimum of \$25,000 in court debt a year. Counties that fall below the threshold can reapply with the State Debt Coordinator to reenter the Program the following fiscal year.

In FY 2010, 47 counties participated and the total amount collected was \$6.1 million with \$3.2 million received by the State and \$2.9 million received by the counties. In FY 2011, 48 counties participated and the total amount collected was \$10.0 million with \$5.3 million received by the State and \$4.7 million received by the counties.

There are currently 45 counties participating in FY 2012. Wayne, Sac, Louisa, and Hamilton counties did not meet the \$25,000 threshold and were notified by the State Court Administrator that they were ineligible to participate in FY 2012 based on the statutory threshold. Since there is currently no State Debt Coordinator, counties can reapply with the State Court Administrator. The legislation also required an annual report be sent to the

State Debt Coordinator. Those reports are currently being received by the Department of Revenue. In addition, Decatur, Fremont, Ringgold, and Taylor Counties have entered into Code Chapter 28E agreement for collections. Chickasaw County chose not to participate for FY 2012 and new counties participating in FY 2012 are Benton, Floyd, and O'Brien Counties.

- **Assignment of Debt to the Centralized Collection Unit (CCU)** – Criminal debt from all 99 counties is sent to the CCU at 30 days, for a period of one year, prior to being sent to another collection program such as a private debt collector. If a notice of commitment has been filed by the county attorney and the defendant is not in a current payment plan with the CCU, the debt is sent to the requesting county at 90 days from the date imposed. The legislation required the debt to be sent to the CCU sooner (at 30 days rather than 45) but also permitted debt to be withdrawn from the CCU sooner as well (at one year rather than two years).

For FY 2011 collections, the Judicial Branch reported a total of \$25.4 million collected by the CCU. This is an increase of \$966,000 (3.9%) compared to FY 2010. The CCU reported an increase on court debt collections in the first 60 days from 4.77% in FY 2010 to 5.96% in FY 2011, which is a 24.9% increase overall. This is primarily due to the CCU placing more emphasis on early collection.

- **Clarifies Payment of a Fine at the Date of Imposition** – Requires a person to pay their fines with the Clerk of Court on the date of imposition. The Judicial Branch issued a supervisory order on July 2, 2010, taking effect July 12, 2010. The order required the court to direct a person that owes a fine to pay the fine with the Clerk of District Court on the date the fine is imposed. The order also eliminated the long-standing provision that allowed a judge to fix a date in the future not more than 120 days from the date the fine was imposed for payment of the fine. The order retained the provision allowing the judge discretion to order a fine to be paid in installments but required the first installment to be paid within 30 days of being imposed.
- **Court Debt Priority Ranking For Setoffs** – The Department of Administrative Services (DAS) operates the Income Setoff Program. Money recovered by DAS through this Program is returned to the respective department or agency and is applied to the various funding sources. Senate File 2383 moved the Clerk of Court (Judicial Branch) from the fourth to second position on the priority list behind the Child Support Recovery Unit and the Foster Care Recovery Unit.

Total setoffs (offsets) for FY 2011 were \$29.4 million compared to \$25.6 million for FY 2010. This was an increase in overall offsets of \$3.8 million (15.0%). The Judicial Branch offsets for FY 2011 was \$9.3 million compared to \$7.7 million for FY 2010, which is an increase of \$1.6 million (20.8%). There is no way to determine if the increase in Judicial Branch offsets is due to the change in priority or just an increase in the dollars recovered.

The last page of this document includes a flow chart highlighting the changes from SF 2383.

Additional information on court debt can be found at the following:

[Senate File 2383 Final Action Fiscal Note](#)

[Court Debt Collection Issue Review](#) – January 21, 2010

[Court Debt Amnesty Report](#)

